

**“OTHER FACTORS” TO CONSIDER IN COMPARING WORKERS’  
COMPENSATION INSURANCE SYSTEMS:  
A SYSTEM FUNDING LOOK AT OREGON**

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There are many ways to organize and fund a workers’ compensation (WC) insurance system, and the variety of approaches taken by the fifty states and the District of Columbia are a testament to the many options available. Oregon has consciously chosen to diversify the funding sources from which WC services are provided in that state, and this diversity and its impact is the focus of this draft paper.

**Oregon WC System Funding Diversity---the State WC Payroll Tax**

In 1986 Oregon’s WC system was the sixth most expensive in the nation, at least as measured exclusively in a comparison of Oregon WC “pure” premium costs with the premium costs of other states. From that time to the present, the Oregon Department of Consumer and Business Services (ODCBS), has examined how WC costs might be reimbursed by WC premium and other funding mechanisms, and has recommended a broader, more diversified system of WC funding than is the case for most states. Oregon legislators, sensitive to the issue of making Oregon appear as business-friendly as possible, implemented legislative recommendations from ODCBS that have minimized the impact of WC costs on WC premium levels and that have therefore reduced direct WC “pure” premium costs charged by insurers. The decisions of Oregon legislators spread a large portion of WC system costs directly to employers and employees, rather than leave all WC costs associated with premium costs. Parallel to the state tax that states apply to payrolls in order to create an unemployed worker tax pool to draw on in times when the state economy has higher than normal unemployment, Oregon has created a separate WC insurance tax pool funded by Oregon state payroll taxes.

What fiscal impact has the Oregon WC payroll tax had on WC premium rates in Oregon over time? From 1991 to 2002, Oregon’s WC pure premium rates experienced consecutive annual decreases and, from 2003 to the present, Oregon’s WC pure premium rates have remained unchanged. Currently, if only Oregon’s WC pure premium rates are used to compare Oregon to other states’ WC premium rates, Oregon has gone from sixth highest in 1986 to 42nd nationally in 2004, and the cumulative decrease in pure premiums since 1990 totals 57.4 percent and represents an estimated \$11.5 billion in WC premium savings to employers. By diversifying Oregon’s funding mechanisms for its WC system by including a WC state payroll tax, and by conducting and publicizing an annual comparative national study that centers its attention on the typical solitary marker for comparison---the WC pure premium rate---Oregon projects an image of extraordinary success in reducing and controlling its WC rates, at least relative to other states.

Specific legislative changes in Oregon are also responsible for this reduction in Oregon WC pure premium rates. Among the significant legislative changes was the 1996 establishment of the Workers Benefit Fund (WBF) pool, primarily funded by the WC hourly wage, and the transfer of WC expenditures from assessment funding to the WBF, and the 2001 approval of the transfer of some WC administrative cost from the WC assessment to the WBF, and the back and forth transfers that have been made subsequently (*Oregon Biennial Report*, January Edition, 2005, p.80). Oregon also facilitated the development of Managed Care Organizations (MCOs) in 1990, and converted to the Resource Based Relative Value System (RBRVS) as a better basis for establishing and maintaining WC fee schedules in 1997, both steps that can better control medical

costs (Oregon Biennial Report, January Edition 2005, p34-36). In terms of changing the dynamics of what WC insurance policies cover, on the macro level Oregon also enabled large-deductible premium programs that increased in use by insurers from 0.2 percent from 1996 to almost 17 percent by 2003. On the micro level, even individual employer policies can now be base-changed, so an employer can pay the first \$1,000 of medical costs for an injured worker and thereby have no impact on his WC insurance experience history for this portion of the injured worker’s costs. (Oregon Biennial Report, January Edition 2005, p75-77, 73). By creating new, tighter controls on pharmacy fee schedules and reimbursements, Oregon also began to impose greater control on WC pharmaceutical costs by 2002 (Oregon Biennial Report, January Edition 2005, p38-39). The effect of these legislative changes would have been less significant if Oregon had not had its WC tax pool as a transition and in some instances permanent funding resource for several of these changes.

What are the characteristics of the Oregon WC payroll tax used by Oregon to pay for WC programs and that offsets Oregon’s WC pure premium costs? Both employers and employees contribute equally to the Oregon WC payroll tax through the employer’s normal payroll tax assessment process. This payroll tax is formally encumbered in the Workers’ Benefit Fund Assessment (WBF). Applied to each hour or partial hour worked by each paid employee provided with workers’ compensation, for calendar year 2006, the ODCBS has set the Fund Assessment to \$0.03 per hour, down from the \$0.034 rate in place for 2005. The WBF pays for certain programs that provide direct benefits to injured workers and their beneficiaries, and also helps employer programs helping injured workers return to work. Employers who have neglected to insure their employees---the equivalent to Uninsured Employee Fund employees in other states---are assessed retroactively when identified, along with penalties, and recovered resources are returned to the WBF. ODCBS is serious about maintaining the fiscal integrity of the WBF, and directly contracts with Oregon WC insurers to recapture any outstanding obligations owed by employers.

Historically, Oregon had had a small WC funding program in place since the 1950s that was based on employment; the program was called “cents-per-day” and included a few cents per worker per day for WC purposes. This program was converted to a “cents-per-hour” program in the 1980s. Based on the accompanying charts, you can see how this additional funding mechanism to meet WC needs produces a substantial increase in WC funding.

Most states rely relatively exclusively on a percentage assessment on WC premiums issued in the state for regulatory funding for the state WC system, and therefore the WC pure premium comparison that Oregon’s study focuses on is a good beginning point for comparing the cost of WC on a state-to-state basis. Let’s go back to this secondary funding source for WC costs in Oregon to see the full impact of Oregon’s WC tax on Oregon’s WC system.

The Oregon WC Premium Assessment is the second WC system funding source that, while kept separate from the rate setting process per se, is an assessment made on Oregon WC premium charges paid to WC insurers and is imposed by ODCBS. The Oregon WC Premium Assessment is based on a percentage of the actual insurer premium made on employers by insurers, and for 2006 is set by ODCBS at an amount equal to 5.5 percent of the WC insurance premium for Plan II (private insurers) and Plan III (Oregon State Fund) payers, or 5.7 percent on self-insured employers and self-insured employer groups. These 2006 WC Premium Assessment levels represent a reduction of over 19 percent in the total WC assessment, bringing the Oregon WC Premium Assessment down to its lowest level since 1997. I am still gathering data in this premium assessment area, but the simple math is that this ODCBS-determined WC Premium Assessment can apparently range up to 25 percent of the value of the WC pure premiums charged by insurers. This annual Premium Assessment goes toward the funding of WC-related programs

and workplace and health programs for Oregon employers and workers that are administered primarily through ODCBS. The ODCBS conducts public meetings each year in order to solicit public comment on the initial recommended WC Premium Assessment set by ODCBS. Please note that as you look over the charts accompanying this draft paper, Oregon’s Premium Assessment is significantly lower than the revenue generated by Oregon WC hourly wage tax, and that in all cases Montana’s WC-related related revenues are significantly lower than those generated by Oregon, on an injured worker basis.

### **Summary**

If we are going to do an effective job comparing Montana’s WC system with the WC systems of other states, we must do more than a superficial analysis. As an example, the funding diversity of Oregon’s WC system makes a WC-pure-premium cost comparison at least misleading. If we are looking exclusively at WC system cost as an issue, Montana’s 3 percent premium assessment is remarkably lower than Oregon’s, with the attached chart showing Oregon’s annual premium assessment varying over time between 12 percent and 4.5 percent, and this specific comparison is arguably the fairest comparison one could make between these two states’ WC systems.

There are other factors as well. Oregon uses this much broader funding for its WC system to aggressively push return-to-work and other WC programs which help reduce employer costs, insurer costs, and worker insecurity about his or her future place in the workforce. Differences in WC benefit programs in Montana and Oregon also relate to cost and return-to-work issues. One could say that the WC-funding richness of Oregon’s WC system, if run effectively, could be the laboratory for proving the value of different kinds of return-to-work programs, and we as a state should watch Oregon closely for the results of these WC program studies. And now we have a relatively simple formula by which Montana could dramatically decrease its national ranking when compared to other states’ WC pure premium costs: initiate a cents-per-hour WC wage tax and use the resultant pool to diminish Montana’s WC pure premium costs.